



**Town of Tyngsborough
Board of Appeals**

Town Hall-25 Bryants Lane
Tyngsborough, Ma 01879-1003
(978) 649-2300, Ext. 112

Board of Appeals Minutes from December 14, 2006.

Members Present: Robb Kydd, Gary Ralls, Eileen Farrell, Chris Mechalides and Cheryl Bradley. Claire Cloutier was present for the first hearing only and then left the hearing.

6:30 PM- continued hearing from November 9, 2006.

James & Kim Hapenny, 9 Cedar Lane, Assessors Map 26, Parcel 145(Lot #7), requesting variance on the frontage and square footage in order to sub-divide two lots subject to Planning Board approval. R-1 Zone. Sections 2.12.50.

Application presented by Atty. Pete Nicosia.

Atty. Fallon's letter has been read into the meeting. The Board asked for legal opinion by Atty. Charles Zaroulis and Charles referred this matter to Atty. Fallon.

No abutters were present at this hearing to speak for or against the application.

Motion to close the public portion of the hearing by Farrell, seconded by Mechalides.
Vote 5-0. Carries.

Motion by Chris Mechalides to deny application due to no hardship related to topography, the motion was made to (**Deny**) the Variance by Chris Mechalides and seconded by Eileen Farrell- Vote 5-0 Application denied. The Board decision for the denial is based upon Atty. Fallon findings in his opinion letter dated December 8, 2006. The Board felt there was no hardship related to topography and that this sub-division was created taken into account the wetlands.

Members voting against this application was Robb Kydd, Eileen Farrell, Chris Mechalides, Cheryl Bradley and Claire Cloutier.

Gary Ralls was not present to hear the first hearing and did not vote on this application.

Regular scheduled hearings.

Kenneth & Joanne Coleman, 405 Dunstable Rd., Map 15, Parcel 76, request variance from the front yard set back to cure existing in-ground pool encroachment. R-1 Zone, sections 2.12.50.

Legal notice read. Advertised in the Lowell Sun on November 30 & December 7, 2006.

Town Board notified. No challenges to the legal notice or abutter notification.

Motion to waive the reading of the abutter's list by Farrell

Seconded by Ralls. Carries Vote 5-0.

Application presented by Atty. Pete Nicosia.

No abutters speaking for the applicant. One abutter-Neil Hickey-409 Dunstable Rd. spoke against his concerns was that there was damage to his property. Atty. Peter Nicosia encouraged Mr. Coleman to correct any damage that is not cost prohibitive.

Motion to close the public portion of the hearing by Chris Mechalides.
Seconded by Eileen Farrell.
Carries 5-0.

Motion to **Approve** the variance of 7.1 feet by Eileen Farrell.
Conditioned that Mr. Coleman correct any damage that is not cost prohibitive (As stated by Atty. Nicosia.
Seconded by Ralls.
Carries 5-0.

Charles & Gloria Clancy, 44 Parham Rd., Map31A, Parcel 12, request variance from total lot area for the creation of two (2) -lot subdivision subject to Planning Board approval. Existing house and garage will be razed. R-2 Zone, section 2.12.50.

Legal notice read. Advertised in the Lowell Sun on November 30 & December 7, 2006. Town Board notified. No challenges to the legal notice or abutter notification.

Motion to waive the reading of the abutters list by Eileen Farrell.
Seconded by Gary Ralls
Vote 5-0-Carries

Application presented by Pete Nicosia Steve Auger from Hayner/Swanson Inc.

Abutters speaking for the application were John Baranowski-11 Blossom St., Eleanor Ball-41 Parham Rd., Ann Boranowski-11 Blossom St..

No abutters speaking against.

Motion to close the public portion of the hearing by Eileen Farrell.
Seconded by Mechalides.
Vote 5-0 Carries.

Motion to **(Deny)** the Variance by Gary Ralls
Seconded by Eileen Farrell.
Vote 5-0 Application denied.
Reasons for the denial is the Zoning Board of Appeals is not able to create a non-conforming lot. Voting against the application is Robb Kydd, Gary Ralls, Eileen Farrell, Chris Mechalides, and Cheryl Bradley.

Other Business;

Motion to approve minutes from November 9, 2006 by Eileen Farrell. Seconded by Claire Cloutier. Vote 5-0-Carries.
Motion to adjourn by Ralls, seconded by Kydd.
Minutes taken by Cheryl Bradley.